IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

TUESDAY, THE TWENTY SECOND DAY OF JUNE
TWO THOUSAND AND FOUR

:PRESENT:

THE HON'BLE MR JUSTICE A.GOPAL REDDY
WRIT PETITION NO : 8044 of 2003

Between:

G. Mahender Reddy, S/o Kista Reddy,
R/o Madaram Village, Reghunathpalli Mandal,
Warangal Dist.

..... PETITIONER

AND

The Regional Transport Officer,
Warangal.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or direction more particularly one in the nature of writ of Mandamus declaring that the action of the respondent in not issuing No Objection Certificate (NOC) to the petitioner's Vehicle bearing No.AP21-9147 for transfer and Registration of the vehicle and in not handing over the Registration Certificate (RC) book to the petitioner is highly arbitrary bad and illegal

Counsel for the Petitioner:MR.P.PRABHAKAR REDDY,
Advocate

Counsel for the Respondent:The GP FOR TRANSPORT.

The Court Made the Following :

Oral Order:

When WPMP is taken up for hearing, both the counsel argued the main case and requested to dispose of the writ petition itself. Heard the counsel on either side.

Petitioner claiming to be the owner of Mahindra Jeep bearing No.AP-21-9147 filed the present writ petition complaining that he sold the vehicle to one K.Thirumala Naidu of Kurnool Town by entering into an agreement to sell the vehicle for Rs.94,000/- and accordingly, he received an amount of Rs.40,000/- towards advance and balance amount of Rs.54,000/- will be paid at the time of transfer of vehicle. To complete the transaction when the petitioner approached the respondent for issuing *No Objection Certificate* (NOC) and also to handover the RC book which was seized from the petitioner earlier, the respondent neither handed over the RC nor issued NOC which is arbitrary and illegal. Hence the present writ petition.

In answer to Rule, respondent filed counter stating that the vehicle was seized by the Motor Vehicle Inspector, Flying Squad on 02-08-2002 for certain irregularities in plying the vehicle from Jangaon to Kommal with 9 adult passengers excluding the driver on contract for Rs.200/- towards hire charges. As the passengers are individuals and not related to the owner, he paid tax of Rs.5,400/- for the quarter ending 30-09-2002 and compounding fee of Rs.4,925/- and got released the vehicle. Thereafter, show cause notice was issued for misuse of the vehicle. Since the vehicle is covered by Hire Purchase Agreement with Sai Thirumala Auto Finance, Kothammagadda, Mothukur, Nalgonda and the owner has not applied for any hire purchase termination or issue of clearance certificate, and in view of instructions issued by the Transport Commissioner to restore the original seating capacity of the vehicle, wherever the seating capacity of the Omni Buses/Maxi Cabs altered from 10 in all to 6 in all, necessary notice was issued to the petitioner for restoring the original seating capacity. Unless the petitioner gets clearance certificate from the financier and applies in Form No.35 with prescribed proforma for termination of hire purchase agreement, NOC sought by the petitioner cannot be issued.

Learned counsel for the petitioner submits that petitioner has

submitted the application in required proforma for issuance of NOC and return of RC book, therefore, a direction may be given to the respondent for issuance of the same at an early date.

In view of the same, on petitioner submitting the necessary application in Form No.35 for enabling him to transfer the vehicle, respondent shall consider the same and pass appropriate orders within three months from the date of receiving the application.

The writ petition is accordingly disposed of. No costs.

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A.GOPAL REDDY, J.

22-06-2004
Murthy

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To
1.The Regional Transport Officer, Warangal.
2.2 CCs to the Government Pleader for Transport, High Court Buildings, Hyderabad (OUT).
3.Two CD copies.